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circumstances, the seller must not include in the distribution non-contract customers, or new contracts taken after the contingency occurred. See cases above cited. For an apparent exception in favor of regular customers, which on principle seems open to doubt, *cf. Oakman v. Boyce* (1868) 100 Mass. 477; *Metropolitan Coal Co. v. Billings* (1909) 202 Mass. 457. The principal case seems an unfortunate departure from a just and reasonable rule.

CONTRACTS—RESTRAINT OF TRADE—VALIDITY OF RESTRICTIONS ON RESALE PRICE.—The plaintiff sought an injunction to prevent the defendant from selling Ingersoll watches at prices below those specified in a notice attached to each watch. The plaintiff manufactured the watches in New York and sold them, subject to the price restrictions, to jobbers in New Jersey, from whom the defendant acquired them. The defendant moved to dismiss the bill. *Held*, that the bill was sufficient. *Robt. H. Ingersoll & Bro. v. Hahne & Co.* (1917, N. J. Ch.) 101 Atl. 1030.

See COMMENTS, p. 397.

CRIMINAL LAW—ASSAULT—DISEASE COMMUNICATED BY HUSBAND TO WIFE.—The defendant, knowing himself to be afflicted with a venereal disease, had sexual relations with his wife without informing her of his condition. She contracted the disease. *Held*, that the defendant was guilty of an assault. *State v. Lankford* (1917, Del. Gen. Sess.) 102 Atl. 63.

The marital relation confers upon the husband a privilege of intercourse, but whether this privilege permits a husband knowingly to infect his wife without incurring criminal liability is in dispute. The leading English case holds that it does. *Regina v. Clarence* (1888) 16 Cox C. C. 511. But Hawkins, J., dissenting, said that though a simple act of communion is lawful, one combined with contagion is not, there being no consent to the injection of poison. This raises the much disputed question of what is meant by consent. American courts have held that the administering of poison in food constitutes an assault, on the ground that there is no consent to the taking of poison. *Commonwealth v. Stratton* (1873) 114 Mass. 303 (Spanish fly in figs); *Johnson v. State* (1893) 92 Ga. 37, 17 S. E. 974 (arsenic solution in coffee). The English cases are *contra*. *Regina v. Walkden* (1845) 1 Cox C. C. 282 (Spanish fly in ale); *Regina v. Hanson* (1849) 2 C. & K. 912 (Spanish fly in liquor). Intercourse secured by impersonation is, because of the consent, at most an assault and not rape. *Regina v. Saunders* (1838) 8 C. & P. 265; *Regina v. Williams* (1838) 8 C. & P. 286; but see *Regina v. Dee* (1884) 15 Cox C. C. 579, and section 4 of the Criminal Law Amendment Act, 1885 (48 & 49 Vict., C. 69). "Consent" to sexual intercourse induced by advice that it is a surgical operation is no consent. *Regina v. Flattery* (1877) L. R. 2 Q. B. D. 410. Consent is a form of intent, the consenting party intending to undergo certain consequences. See Prof. Walter W. Cook, *Act, Intention and Motive* (1917) 26 YALE LAW JOURNAL 645. If the husband's marital privilege cannot be exercised without producing other consequences not intended by the wife, *i. e.*, not consented to, the exercise of the privilege must be foregone or a criminal liability will be incurred. No other American authority on the precise point has been found.

CRIMINAL LAW—LARCENY—DIVERSION OF WATER FROM CITY MAINS.—The defendant had surreptitiously diverted water around a meter located on his land so as to prevent registration of the total amount used. In a prosecution